IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 18286 of 2003(B)

PETITIONER:

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1. JOSEPH KURIAKOSE,
   VADASSERY HOUSE, THURUTHIPADAVU, KOOVAPPALLY P.O.,
   KOTTAYAM DISTRICT.

2. BIJU JOSEPH KURIAKOSE @ BIJU KURIAKOSE,
   VADASSERY HOUSE, THURUTHIPADAVU, KOOVAPPALLY P.O.,
   KOTTAYAM DISTRICT.

BY ADV. SRI.NOBLE MATHEW

RESPONDENTS:

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1. THE SECRETARY,
   KOOVAPPALLY SERVICE CO-OPERATIVE BANK LTD.,
   KOOVAPPALLY P.O., KOTTAYAM.

2. THE ARBITRATOR-CUM-SPECIAL SALE OFFICER,
   CO-OPERATIVE SOCIETY INSPECTOR,KOOVAPPALLY SERVICE
   CO-OPERATIVE BANK LTD., KOOVAPPALLY P.O.,KOTTAYAM.

3. THE KERALA STATE CO-OPERATIVE TRIBUNAL,
   THIRUVANANTHAPURAM.

R1 & R2 BY ADV. SRI.P.RAVINDRA BABU
R3 BY GOVT.PLEADER SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A.NO. 4186 OF 2003 IN WPC NO. 18286 OF 2003

DISMISSED

13.3.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE OBJECTION FILED BY THE 1ST RESPONDENT IN I.A. 311 OF 2002 IN RP 170.02

EXT.P2 TRUE COPY OF THE ORDER PASSED BY THE 3RD RESPONDENT IN RP 170/02 DATED 14.3.03

EXT.P3 TRUE COPY OF THE SALE NOTICE IN ARC NO. 2790 OF 1999 ISSUED BY THE 2ND RESPONDENT.

EXT.P4 TRUE COPY OF THE SALE NOTICE IN ARC 2588 OF 2000 ISSUED BY THE 2ND RESPONDENT.

EXT.P5 PHOTOSTAT COPY OF THE SALE NOTICE IN ARC 2640/2000 ISSUED BY THE 2ND RESPONDENT.

EXT.P6 TRUE COPY OF THE DISMISSAL ORDER DATED 14.3.2003 IN RP 160/02 PASSED BY THIRD RESPONDENT.

EXT.P7 TRUE COPY OF THE SALE NOTICE ISSUED BY THE 2ND RESPONDENT IN ARC 2791/99

EXT.P8 TRUE COPY OF THE SALE NOTICE PROPOSING TO SELL THE 2ND PETITIONER'S IMMOVABLE PROPERTIES IN ARC 2641 OF 2000 ISSUED BY THE 2ND RESPONDENT.

FIRST RESPONDENT'S EXHIBITS:

EXT.R1(1) TRUE COPY OF THE STATEMENT SHOWING THE AMOUNTS DUE FROM THE PETITIONERS AND OTHER FAMILY MEMBERS.

EXT.R1(2) DATED 25.5.2000 TRUE COPY OF THE CERTIFICATE OF POSTING ISSUED BY THE KOOVAPPALY POST OFFICE.

EXT.R1(3) DATED 6.1.2001 TRUE COPY OF THE CERTIFICATE OF POSTING ISSUED BY THE KOOVAPPALY POST OFFICE.

EXT.R1(4) DATED 12.2.2001 TRUE COPY OF THE LETTER ISSUED BY THE 1ST PETITIONER.

EXT.R1(5) DATED 12.2.2001 TRUE COPY OF THE LETTER ISSUED BY THE 2ND PETITIONER.

TRUE COPY

P.S.TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 18286 OF 2003

Dated this the 13th day of March, 2007

JUDGMENT

Petitioners are challenging the order of the Tribunal confirming arbitration awards passed by the Arbitrator awarding claim amount in favour of the first respondent-Bank. Even though counsel for the petitioners contended that Arbitrator did not grant opportunity to the petitioners and the awards were ex-parte, on merits, the only case of the petitioners is against demand of high rate of interest. Counsel for the Bank contended that interest awarded is in terms of the contract. He further pointed out that loan amount was utilised by the petitioners for the purchase of property and on account of appreciation in value of land, petitioners have not suffered any loss inspite of payment of high rate of interest. However, I feel, if liability is settled within a reasonable time, petitioners can be granted some incentive. W.P. is accordingly disposed of modifying the awards by directing respondents to recover simple interest at contract rate that is without charging compounded rate of interest, or penal or default interest, provided the

arrears with simple interest at contract rate is paid by the petitioners on or before 15.5.2007. If payment is not made as above, then reduction granted herein will stand automatically vacated and respondents will be free to proceed for recovery in terms of the awards confirmed by the Tribunal.

(C.N.RAMACHANDRAN NAIR)
Judge